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C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 002973

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TAGS: [PGOV PHUM NI](#)

SUBJECT: NIGERIA: OPUTA PANEL WRAPS UP HEARINGS

REF: A. 00 LAGOS 3586

[1](#)B. LAGOS 0079

[1](#)C. LAGOS 0845

Classified by Ambassador Howard F. Jeter; Reasons 1.5 (b) and (d).

[1](#)1. (C) SUMMARY: The Oputa Panel held its final session on October 19, and has begun to draft its findings, due by year's end. While Panel proceedings kept Nigerians glued to their televisions, many came away feeling the Panel did not delve far enough into the death of Abiola. Nor was the Panel able to force former Heads-of-State Buhari, Babangida and Abubakar to appear and answer questions (the three snubbed a special Panel offer to make in camera statements without cross-examination). Beyond a few instances of personal and inter-communal reconciliation and catharsis, the Panel's greatest contribution was to provide a national forum for the airing of human rights grievances, a first for Nigeria. Despite its failings, this often emotional reminder of the hardships suffered during military rule and the civil war was a useful exercise, particularly when Nigeria has experienced a degree of political tension and communal conflict that have led some Nigerians to talk about the "order" provided by past military governments. A by-product of the Oputa Panel may have been to further boost the consolidation of Nigeria's nascent and sometimes shaky democracy. The Panel may seek funding from the USG in order to complete its report. END SUMMARY.

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TRUTH AND RECONCILIATION?
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[1](#)2. (U) The National Human Rights Violations Investigation Commission (HRVIC), known as the Oputa Panel, finished its public hearings in Abuja on October 19 (hearings were previously held in Lagos, Port Harcourt and Kano). Highly respected former Supreme Court Justice Chukwudifu Oputa chaired the Panel, which received over 10,000 petitions and memoranda alleging human rights violations by military regimes from 1966 to 1998. To manage this vast workload, 150 cases were ultimately selected for public presentation based on popular demand, different patterns of violations, the evidence supporting the allegations and the possibility of alternative redress for the violations. The public hearings also included special institutional and sectoral hearings on civil society, the military and the security agencies.

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A PANEL MEMBER SPEAKS
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[1](#)3. (C) During an October 10 meeting with Ambassador Jeter, Panel member Father Matthew Hassan Kukah optimistically described the Panel's outcome. Kukah outlined the goals of the Panel as: (1) reconciliation between individuals; (2) reconciliation between communities; and, (3) national reconciliation. Considering its limited budget, the Panel had provided a cathartic event for Nigeria, Kukah opined. Reconciliation had occurred between some individuals and some communities, and the country had been given a peek under the veil of history to see the depredations inherent in military regimes. Not every stone had been turned, but enough muck had been exposed to remind people of the dangers and excesses of military rule.

[1](#)4. (C) Kukah noted that almost all of Nigeria's ethnic communities had complained of "marginalization," through denial of full access to resources, limited or no services provided by government, or repression by another ethnic group. Kukah, mindful of the irony, noted many complainants were themselves the subject of petitions by other communities on the same grounds. The Igbos had accused the Hausa-Fulani of resource strangulation; in turn, the Ibibios accused the Igbos of the same offense. (COMMENT: Calls for a Sovereign National Conference to review the 1999 Constitution, thus far

rejected by President Obasanjo, reflect the strong belief that the current governmental framework will only promote marginalization. Only a fundamental change in the national "rules of the game" (i.e., derivation of power and resources to regionally-based ethnic groups) will protect the fundamental rights of the groups advocating the conference. However, there is no guarantee that such a conference will foster reconciliation; instead, it might degrade into inter-ethnic caviling and separatist polemics. END COMMENT.)

15. (U) In his closing remarks on the last day of the Panel's sitting, Justice Oputa commented in a similar vein, saying, "from the memoranda and evidence from those groups, it became apparent that there exists a simmering discontent which should not ever be allowed to boil over. The challenge then is to find an answer to this dreadful trend called marginalization; and find an answer Nigeria must."

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WHERE'S THE BEEF?
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16. (C) The largest single complaint against the HRVIC was the lack of closure regarding M.K.O. Abiola's death. Numerous claims came from numerous quarters, including a distasteful insinuation that Dr. Susan Rice was involved because she served the tea at the meeting where Abiola became ill. Despite the time expended, the Panel was unable to make conclusive findings that would satisfy rank-and-file Nigerians regarding Abiola's demise. Kukah described the testimony surrounding Abiola's death as inconclusive and dismissed accusations against Rice as "sensationalistic." (COMMENT: Some newspapers tried to give the insinuations against Dr. Rice high media play, due to the obvious sensational value of the by-line. Fortunately, this non-story never gained traction and has faded away. END COMMENT.)

17. (C) Coming in a close second as the other major public disappointment was that, after much wrangling, Generals Abubakar, Babangida, and Buhari never appeared. There was considerable debate whether the three military Heads-of-State who ruled Nigeria between 1983-1999 would appear before the Panel and address allegations. On October 3, the HRVIC denied a claim of immunity argued by lawyers representing Generals Abubakar, Babangida and Buhari, and suggested that it could compel their attendance before the Commission. By the end of the hearings, however, the three had not appeared and the Panel never sought to compel their presence. (A Court of Appeal subsequently ruled that they could not be forced to appear, but this appellate decision was largely moot, as it came after the Panel's final day of hearings.) (See additional background in paras 11-14.)

18. (C) Kukah told the Ambassador that he had personally spoken to all three, urging them to appear. They had been promised examinations of limited scope -- no issues outside the four filed petitions would be allowed. Moreover, Kukah had informed them that the objective was not to assess culpability, but to seek socially responsible national reconciliation. Kukah told the trio that after President Obasanjo appeared twice before the Panel they were exposing themselves to charges that they were contemptuous or afraid because they really had something to hide. Despite Kukah's urgings, the three Generals never showed. Kukah remarked that the three were probably seen as the "last (viable leaders) the North has to offer," and opined that those surrounding the Generals might have urged them not to appear.

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COMMENT - THE SUM IN A ZERO SUM GAME
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19. (C) COMMENT: The Panel's report, due at the end of the year, is expected to focus on steps the Federal Government should take to reduce the likelihood of future human rights violations. Many human rights problems in Nigeria are the result of institutional weaknesses, i.e. a lack of human rights training for the police, the use of an untrained military for internal security, lack of resources for the prison system, and a crippled judiciary. Fundamentally, the severe economic inequalities between the rich political and economic elite and the poor majority highlight a major cleavage, and ethnic and religious divisions continue to fuel the perception among nearly every group that they are being wronged by another group. While the Panel managed to forge limited personal and inter-communal reconciliation, it also underscored that the larger questions, which gave rise to past abuses, remain no closer to resolution now than before the Panel convened.

¶10. (C) COMMENT CONT: The Panel did, however, allow the "common man" to see in an unflattering glare some of the major figures of Nigeria's military regimes. This was useful to remind Nigerians how problematic, ruthless and fractious military rule was for the country. This was particularly helpful at a time when civilian leadership is faced with numerous challenges. The Oputa proceedings reminded many Nigerians that the past does not offer solution; therefore, the Panel may have provided a boost to greater consolidation of Nigeria's nascent and unsteady democracy.

¶11. (C) COMMENT CONT: An opportunity to differentiate himself from the Generals may partially explain why President Obasanjo appeared before the Panel. Many of his supporters, and perhaps Obasanjo himself, believe the Generals, particularly Babangida, are even now instigating political problems, including fomenting unrest in the North. Obasanjo does not want a direct confrontation with these still powerful king-makers. However, he might like to see them slog through a bit of mud. By appearing at the Panel, Obasanjo implicitly laid down the gauntlet to face public scrutiny, or fail to appear and face public approbation. Additionally, Obasanjo's appearance totally undermined any claims of indemnity the three Generals might have asserted as former Heads-of-State, since Obasanjo appeared as a sitting President. However, it would have been confrontational to force the Generals' appearance. Both Justice Oputa and Obasanjo are southerners, and a confrontation with the three northern Generals might have taken on regional and even religious connotations. Instead of reducing discord, the Panel could have added to it.

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ADDITIONAL BACKGROUND

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¶12. (U) Initially created by President Obasanjo in June 1999, the Oputa Panel was constituted under the Tribunals of Inquiry Act to investigate human rights violations committed by military regimes ruling Nigeria from December 31, 1983 to May 29, 1999. In September 1999, the Panel was re-designated as a Judicial Commission, giving it powers to compel appearance and issue orders equivalent to those of a High Court. With this amendment, the Commission became known as the Human Rights Violations Investigation Commission (HRVIC), or more commonly, "The Oputa Panel." The scope of the Panel was also adjusted to include all military regimes since January 1966, and the duration of its mandate was extended to one year from the date of its first public sitting.

¶13. (U) Public hearings began October 23, 2000 in Abuja. Since then, hearings have been held in Lagos, Port Harcourt, Kano, Enugu and again in Abuja. The Commission listed for public presentation and evidence 150 of over 10,000 petitions and memoranda submitted by members of the public.

¶14. (U) The Commission has requested a six-month extension of its current mandate to draft and submit its report, findings and recommendations. The HRVIC expects to complete this work by the end of 2001. A preliminary concept of its report proposes a document in seven volumes, with an executive summary constituting an eighth volume. The volumes will cover: the background, evolution and mandate of the Commission; the nature and typologies of human rights violations under the military; the summary of the proceedings of and petitions submitted to the Commission (2 volumes); the legal and international context to the work of the Commission; reparations and remedies; findings and recommendations.

¶15. (U) Specialists in international and human rights law will write the report working under the supervision of the Commission. The Commission is not fully funded for the drafting and publication phase. The Federal Government plans to release funds to assist the Commission. However, additional funding will likely be required. The Commission has begun to seek such assistance, but has not yet approached the USG.

Jeter